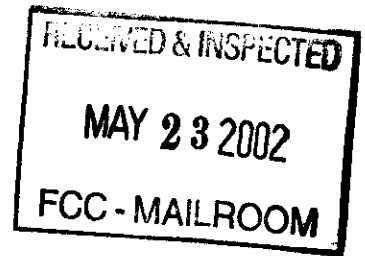


ORIGINAL

ROPES & GRAY

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SUITE 800 EAST
WASHINGTON, DC 20005-3333
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May 9, 2002

BY FIRST CLASS MAIL

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-B204
Washington, D.C. 20554

Re: Ex Parte Presentation regarding MB Docket No. 02-70
Proposed Merger Between Comcast and AT&T Broadband

Dear Acting Secretary Caton:

On behalf of the Broadband Service Providers Association (BSPA) please find enclosed an original and one copy of a memorandum summarizing data and arguments presented *ex parte* to Cable Bureau Chief Ken Ferree on April 24, 2002. The memorandum contains BSPA's views, as presented to the Cable Bureau, concerning applications to transfer control of licenses and authorizations held by the subsidiaries and affiliates of AT&T Corporation and Comcast Corporation. This written disclosure is made pursuant to 47 C.F.R. § 1.1206 for "permit-but-disclose" proceedings.

If you have any questions or comments, please contact me at (202) 626-3902.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas B. Smith".

Thomas B. Smith

Enclosures

No. of Copies rec'd 0
List ABCDE

Mr. William F. Caton

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May 9, 2002

cc: Qualex International
Portals II
445 12th Street, S.W.
Room CY-B402
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Roger Holberg
Media Bureau
445 12th Street, S.W.
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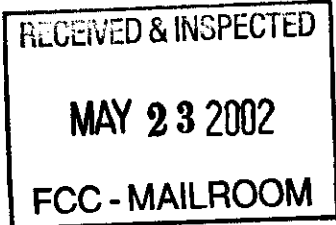
Mr. William F. Caton

-3-

May 9, 2002

Cynthia Bryant
International Bureau
445 12th Street, S.W.
Room 6-C807
Washington, D.C. 20554

Jeff Tobias
Wireless Telecommunications Bureau
445 12th Street, S.W.
Room 2-C828
Washington, D.C. 20554



Ex Parte Presentation

**Issue: Proposed Merger Between Comcast and AT&T Broadband
MB Docket No. 02-70**

Given by Broadband Service Providers Association

April 24, 2002

On April 24, 2002, the Broadband Service Providers Association (BSPA) met with Cable Bureau Chief Ken Ferree to discuss BSPA's concerns regarding the merger of Comcast and AT&T broadband. This memorandum summarizes the views expressed at that meeting. An original and one copy of the memorandum has been forwarded to Acting Secretary, William F. Caton, as well as other interested persons.

The merger of Comcast and AT&T creates a larger, more powerful competitor that threatens the long term existence of the most viable competition for broadband services. BSPA members as a group are the largest competitor to AT&T Comcast. We represent the type of independent facilities-based competition intended by the 1996 Telecom Act, and are the only competition that is positioned to compete at all levels with similar products both today and in the future.

BSPA members can survive and thrive, providing true long-term competition, if our market is not destroyed through unfair means. Without competition from BSPA's members, AT&T Comcast would be returned to near monopoly status. Therefore, BSPA's market position should be actively considered as part of the AT&T Comcast deliberations.

The specific problems BSPA would like to see addressed include the following:

Discriminatory and/or Predatory Pricing practices. Comcast is secretly offering greatly discounted rates to BSPA members' customers to undermine competition. We fully agree with the FCC's conclusion, voiced in the 2001 Annual Competition Report:

The vast resources of a large MSO may simply prove too much to bear in a targeted fashion against a single system entrant. Moreover, we are concerned about the signal such targeting may send to others who would compete in the MVPD market, and particularly to the financial markets to which a new entrant may well be dependent for resources...such practices... tend to limit and discourage new entry.¹

¹ *In re Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, ¶ 209, CS Dkt No. 01-129 (rel. Jan. 14, 2002).

Fair access to programming. Comcast is denying access to key programming services, particularly regional sports programming.

Exclusive and perpetual contracts. Comcast is using such contracts to limit access to rights-of-way and /or significant customer groups.